



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/574,626	05/19/2000	Jose Remacle	VANM159.001AUS	7665

20995 7590 05/12/2005

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

ZHOU, SHUBO

ART UNIT	PAPER NUMBER
----------	--------------

1631

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/574,626

Applicant(s)

REMACLE ET AL.

Examiner

Shubo (Joe) Zhou

Art Unit

1631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-33 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 1 and 3-33 is/are allowed.
6) ☐ Claim(s) _____ is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 05 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/27/05.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Applicants' amendments and request for reconsideration in the communication filed 2/28/05 is acknowledged and amendments entered.

Claims 1 and 3-33 are currently pending and under consideration.

2. The Information Disclosure Statement filed 4/27/05 is acknowledged and entered.

References therein have been considered except documents 5 and 6 because no publication date is provided. The documents are lined-through on the PTO-1449.

3. The rejection of claims 1 and 3-33 under 35 USC 112, second paragraph, in the previous Office action is hereby withdrawn in view of the amendments to the claims.

4. This application is in condition for allowance except for the following formal matters:

The specification is objected to because of the following reasons:

4a. It appears that trademark is used in this application, such as BIOCHIPTM (owned by BRYAN, BRUCE, UNITED STATES, 716 Arden Drive Beverly Hills, CALIFORNIA 90210) on pages 1 and 17. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

4b. The specification is amended on 7/12/01 to include a brief description of the drawings beginning on page 17. The amended specification states Figure 2 comprises "a solid

Art Unit: 1631

support 1 above several regularly spaced illuminant sources 2”, whereas the Figure 2 filed on 3/5/02 contains a numeric symbol “ 1 ’ ” but not “1”. In the same amendment, the specification recites such numerical symbols as “1”, “2”, “3” and “4”, whereas the Figure 3 filed on 3/5/02 only contains such numeric symbols as “2” and “3”.

4c. The specification filed 5/19/2000 on pages 21-22 recite such numeric symbols as “1”, “2”, “3” and “4” for components of the apparatus represented by Figures 2-7 of the drawing. However, it is confusing as to exactly what components of the apparatus those symbols represent because the same numeric symbol, such as “2”, represents different components in different figures: “2”, for example, represents illuminant sources in Figure 2, but confusingly represents also the solid support in Figure 3 filed on 3/5/02.

4d. The drawing (Figure 3) filed on 3/5/02 is objected to because the same numeric symbol “2” represents different parts of the drawing, the solid support, the illuminant sources and the circular support.

Correction is requested.

5. Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

6. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shubo (Joe) Zhou, whose telephone number is 571-272-0724. The examiner can normally be reached Monday-Friday from 8 A.M. to 4 P.M. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel, Ph.D., can be reached on 571-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Patent Analyst Tina Plunkett whose phone number is (571) 272-0549.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

Application/Control Number: 09/574,626

Page 5

Art Unit: 1631

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

Shubo (Joe) Zhou, Ph.D.



John S. Brusca 10 May 2005

JOHN S. BRUSCA, PH.D.
PRIMARY EXAMINER